

VIA E-MAIL AND FEDERAL EXPRESS

June 4, 2004

Mary L. Cottrell, Secretary
Department of Telecommunications & Energy
Commonwealth of Massachusetts
One South Station, Fl. 2
Boston, Massachusetts 02110

Re: DTE 03-60: AT&T's Emergency Motion for an Order to Protect Consumers
by Preserving Local Exchange Market Stability; ACN Communications Services',
et. al., Petition for Expedited Relief Order

Dear Ms. Cottrell:

Sprint Communications Company L.P. ("Sprint") respectfully submits the original and fourteen (14) copies of this letter in support of AT&T's Emergency Motion for an Order to Protect Consumers ("Motion") dated May 28, 2004, and ACN Communications Services', *et. al.*, Petition for Expedited Relief Order ("Petition") dated May 27, 2004.

Sprint provides competitive local exchange, wireless and long distance services in Massachusetts. Sprint also provides local exchange service as an incumbent local exchange company in eighteen (18) other states. Sprint is therefore uniquely qualified to address the importance of the availability of unbundled network elements (“UNEs”).

It is important for the Department to preserve the UNE *status quo* at existing rates per applicable interconnection contracts, until the Department expressly rules otherwise. In particular, this Department should preserve the availability of high capacity loops, including, but not limited to DS1s, at existing rates given that the D.C. Circuit did not address high capacity loops in its holding in *USTA II*.¹ The UNEs that the Court *did* address in *USTA II* included mass market switching and the UNE Platform; DS1, DS3 and dark fiber transport; and interoffice transport for CMRS carriers.² High capacity loops are unaffected by the Court’s decision in *USTA II*. If the Court had wanted to vacate high-capacity loops in *USTA II*, it would have done so.

Sprint requires access to Verizon’s high capacity loops to provide competitive local exchange service in Massachusetts and other states. Unfortunately, Verizon has wrongly stated in various pleadings that the DC Circuit in *USTA II* vacated its obligation to provide access to unbundled high cap loops. For example, the Verizon pleading attached to the FCC’s request for an extension of the stay at the DC Circuit states in relevant part:

Contrary to the CLEC claims, Verizon is not subject to any independent obligation under federal law to continue providing UNEs at TELRIC rates. Any federal obligation will sunset, and the basic condition precedent to the implementation of the PFS transition will therefore be satisfied, once the stay self-imposed by the *USTA II* court expires. Any continuing obligation that may exist to provide UNEs at TELRIC rates under interconnection agreements will be strictly temporary . . .³

¹ *United States Telecom Association v. Federal Communications Commission*, 359 F.3d 554 (D.C. Cir., March 2, 2004 (“*USTA II*”).

² *Id.* at 568-71, 573-74.

³ New York PSC Case No. 04-C-0420, Reply Comments of Verizon New York Inc. on the Implementation of a UNE Rate Transition Plan Pursuant to the Pre-Filing Statement, April 23, 2004, at 2-3.

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As AT&T noted in its Petition, Verizon responded to a Sprint pleading filed with the District of Columbia Public Service Commission, by stating that it (Verizon) intends to unilaterally pursue “any rights” it may have to cease providing UNEs and to transition CLECs to alternatives to UNEs.⁴ These self-serving statements leave the impression that Verizon will attempt to unilaterally discontinue providing high capacity loops and other UNEs to Sprint at existing rates on or after June 15, 2004 when *USTA II* becomes effective, or attempt to unilaterally migrate this traffic to special access facilities.

The Department should stop Verizon from engaging in unlawful, self-help remedies and possibly disrupting local competition and CLECs’ provision of local service. The Department should require Verizon to clarify its position and intent on these issues in a timely manner so that the Department may address any uncertainty before it is too late. The Department should also preserve the UNE (especially access to high capacity loops) *status quo* at existing rates, subject to existing interconnection contracts, until the Department orders otherwise. Thank you for your consideration.

Very truly yours,

Craig D. Dingwall

cc: Parties of Record

⁴ Petition at 6.